

Agenda Date: 8/18/04
Agenda Item: III A

STATE OF NEW JERSEY

Board of Public Utilities

Two Gateway Center

Newark, NJ 07102

www.bpu.state.nj.us

CABLE TELEVISION

IN THE MATTER OF THE PETITION OF COMCAST)
OF NEW JERSEY, LLC FOR A RENEWAL) **RENEWAL**
CERTIFICATE OF APPROVAL TO CONTINUE) **CERTIFICATE OF APPROVAL**
TO CONSTRUCT, OPERATE AND MAINTAIN)
A CABLE TELEVISION SYSTEM IN AND FOR)
THE TOWNSHIP OF BERKELEY HEIGHTS,)
COUNTY OF UNION, STATE OF NEW JERSEY)

DOCKET NO. CE04050381

SERVICE LIST ATTACHED

BY THE BOARD:

On December 14, 1978, the Board granted Suburban Cablevision ("Suburban") a Certificate of Approval in Docket No. 785C-6370 for the construction, operation and maintenance of a cable television system in the Township of Berkeley Heights ("Township"). On November 30, 1994, the Board approved the acquisition of the shares of the parent company of Suburban Cablevision, Maclean Hunter, Inc., by Comcast MH Holdings, Inc. in Docket No. CM94080365. On July 21, 1995, the Board approved the renewal of the Certificate of Approval in Docket No. CE94120561 to Comcast MH Holdings, Inc. (d/b/a Suburban). Subsequently, the company was known as Comcast Cablevision of New Jersey, Inc. ("Comcast New Jersey"). On January 24, 2003, Comcast New Jersey notified the Board that it would operate as a limited liability company, Comcast Cablevision of New Jersey II, LLC. On September 9, 2003, Comcast Cablevision of New Jersey, LLC notified the Board that it would be known as Comcast of New Jersey II, LLC ("Petitioner"). Although the Petitioner's above referenced Certificate expired on December 14, 2003, it is authorized to continue to provide cable television service to the Township pursuant to N.J.S.A. 48:5A-25, pending disposition of proceedings regarding the renewal of its Certificate of Approval.

The Petitioner filed an application for the renewal of its municipal consent with the Township on March 13, 2003, pursuant to N.J.S.A. 48:5A-23 and N.J.A.C. 14:18-13. The Township, after public hearing, adopted a municipal ordinance granting renewal consent to the Petitioner on March 23, 2004. On March 30, 2004, the Petitioner formally accepted the terms and conditions of the ordinance, in accordance with N.J.S.A. 48:5A-24.

On May 26, 2004, pursuant to N.J.S.A. 48:5A-16, the Petitioner filed with the Board for a renewal of its Certificate of Approval for the Township. The Board has reviewed the application for municipal consent, the petition for a Renewal Certificate of Approval and the municipal consent ordinance. Based upon this review and the recommendation of the Office of Cable Television, the Board **HEREBY FINDS** the following:

1. The Petitioner possesses the requisite legal, character, financial and technical qualifications for the awarding of a Renewal Certificate of Approval. Further, the Township reviewed these qualifications in conjunction with the municipal consent process.
2. The design and technical specifications of the system will ensure that the Petitioner provides safe, adequate and proper service.
3. The Petitioner has represented that all previously required construction within the franchise territory is complete.
4. The franchise period as stated in the ordinance is 15 years. The Board finds these periods to be of reasonable duration.
5. The Township may review the performance of the Petitioner with regard to the ordinance by the end of the third, sixth, ninth and 12th year of the consent term as specified in the ordinance. The Township shall notify the Petitioner and the Board of the commencement of said review. Any review shall be completed within six months of the initiating letter sent by the Township. If the Township determines that the Petitioner has failed to substantially comply with the material terms and conditions of the ordinance, the Township shall provide written notice to the Petitioner of such alleged instances of non-compliance and shall grant the Petitioner 90 days to cure such deficiency. The Township may petition the Board for appropriate administrative action, including revocation of the franchise or reduction of the franchise term, only after the 90-day opportunity to cure has passed and the deficiency has not been cured.
6. The Petitioner's rates shall be regulated and tariffs shall be filed for all services, in accordance with the rules and regulations of the Federal Communications Commission, the Board and the Office of Cable Television. The Petitioner shall maintain informational tariffs for unregulated service rates and promptly file any revisions thereto.
7. Pursuant to statutory requirements, the ordinance specifies a complaint officer to receive and act upon complaints filed by subscribers in the Township. In this case, it is the Office of Cable Television. All complaints shall be received and processed in accordance with the applicable rules.
8. The Petitioner shall maintain a local business office or agent for the purpose of receiving, investigating and resolving complaints. Currently, the local office serving this provision is located at 800 Rahway Avenue, Union, New Jersey.

9. The franchise fee to be paid to the Township is specified to be 2% of the Petitioner's gross revenues from all recurring charges in the nature of subscription fees paid by subscribers for its cable television reception service in the Township. Additional regulatory fees shall be paid to the State in an amount not to exceed 2% of Petitioner's gross operating revenues derived from intrastate operations. The Board finds these fees to be reasonable.
10. The Petitioner shall provide service along any public right-of-way to any person's residence or business located in all areas of the franchise territory at tariffed rates for standard and non-standard installation. In all other circumstances, the Petitioner shall utilize the line extension policy ("LEP") attached to the Certificate. The minimum homes per mile figure is 35.
11. The Petitioner shall provide public, educational and governmental ("PEG") access channels and facilities in accordance with its renewal application and the ordinance. Specifically, the Petitioner shall continue to provide residents with a system-wide public access channel maintained by the Petitioner. Qualified individuals and organizations may utilize public access for the purpose of cablecasting non-commercial access programming in conformance with the Petitioner's published public access rules.
12. The Petitioner shall continue to provide the Township with one dedicated local governmental access channel for use by the Township and its designees for non-commercial governmental and educational programming.
13. Within 12 months of the date of issuance of this Certificate, the Petitioner shall construct and maintain, at its sole expense, one fiber optic return line from the Township Hall with a transmitter, receiver and video switcher for the purpose of originating programming to be shown on its governmental access channel. Upon completion of this provision, the Petitioner shall submit proof to the Office of Cable Television indicating its compliance with this provision.
14. Within 12 months of the date of issuance of this Certificate, the Petitioner shall provide a character generator with installation and training, valued at \$5,000.00.
15. Within three months of the date of issuance of this Certificate, the Petitioner shall provide to the Township a one time capital contribution in amount of \$35,000.00 for cable-related needs. Upon completion of this provision, the Petitioner shall submit proof to the Office of Cable Television indicating its compliance with this provision.
16. The Petitioner shall make available to the Township and the school district on a first-come, first-served basis, at least twice a year, a mobile production vehicle for the purpose of producing non-commercial governmental or educational programming, consistent with the Petitioner's published rules and regulations on use of the vehicle. The Petitioner shall continue to provide basic training to all users of the vehicle. The Petitioner also maintains fully equipped operational local production studios in Union Township and Woodbridge Township for the creation of local and access programming.

17. The Petitioner shall provide or continue to provide the standard installation and basic service, free of charge, to one outlet at each public and private elementary and secondary school that exists or may be constructed within the Township, provided that the facility is within 200 feet of activated cable distribution plant.
18. The Petitioner shall provide or continue to provide free installation and basic cable service on one outlet in the municipal building, police department, fire department, first aid squad and public library that is located or may be constructed within the Township, provided that the facility is within 200 feet of activated cable distribution plant.
19. The Petitioner shall provide free basic Internet service, via high-speed cable modem, to one non-networked personal computer in each elementary and secondary school and public library that may be constructed in the Township, provided that the facility is within 200 feet of activated cable distribution plant. The Internet connection shall be installed on a computer that is accessible for student and library patron use, and may not be installed on a computer that is reserved for administrative use only.
20. The Petitioner shall provide the Township an annual written report, no later than February 15th of each year, regarding changes in rates and programming, service enhancements and compliance with the Township's ordinance and other such matters as may be of interest to the Township.
21. The Township has reserved the right to reopen negotiations with the Petitioner, subject to N.J.S.A. 48:5A-47 and N.J.A.C. 14-17-6.7, with regard to the provision of special subscriber rates for senior citizens in the event of a change in the law concerning such rates.

Based upon these findings, the Board **HEREBY CONCLUDES**, pursuant to N.J.S.A. 48:5A-17(a) and 28(c), the Petitioner has the municipal consent necessary to support the petition, that such consent and issuance thereof are in conformity with the requirements of N.J.S.A. 48:5A-1 et seq., that the Petitioner has complied or is ready, willing and able to comply with all applicable rules and regulations imposed by or pursuant to State or federal law as preconditions for engaging in the proposed cable television operations, that the Petitioner has sufficient financial and technical capacity, meets the legal, character and other qualifications necessary to construct, maintain and operate the necessary installations, lines and equipment, and is capable of providing the proposed service in a safe, adequate and proper manner.

Therefore, the Petitioner is **HEREBY ISSUED** this Renewal Certificate of Approval as evidence of Petitioner's authority to construct and operate a cable television system within the entirety of the Township.

This Renewal Certificate is subject to all applicable State and federal laws, the rules and regulations of the Office of Cable Television, and any such lawful terms, conditions and limitations as currently exist or may hereafter be attached to the exercise of the privileges granted herein. The Petitioner shall adhere to the standards set forth by the Federal Communications Commission's rules and regulations, 47 C.F.R. §76.1 et seq., including but not limited to, the technical standards 47 C.F.R. §76.601 through §76.630. Any modifications to the provisions thereof shall be incorporated into this Certificate.

Failure to comply with all applicable laws, rules, regulations and orders of the Board or Office of Cable Television and/or the terms, conditions and limitations set forth herein may constitute sufficient grounds for the suspension or revocation of this Certificate.

This Renewal Certificate is issued on the representation that the statements contained in the Petitioner's applications are true, and the undertakings therein contained shall be adhered to and enforceable unless specific waiver is granted by the Office of Cable Television pursuant to the authority contained in N.J.S.A. 48:5A-1 et seq.

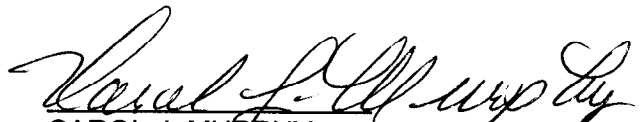
This Certificate shall expire on December 14, 2018.


DATED: 8/19/04

BOARD OF PUBLIC UTILITIES
BY:


JEANNE M. FOX
PRESIDENT



FREDERICK F. BUTLER
COMMISSIONER


CAROL J. MURPHY
COMMISSIONER


CONNIE O. HUGHES
COMMISSIONER


JACK ALTER
COMMISSIONER

ATTEST:


KRISTI IZZO
SECRETARY

APPENDIX "I"
OFFICE OF CABLE TELEVISION
LINE EXTENSION POLICY

COMCAST OF NEW JERSEY II, LLC
TOWNSHIP OF BERKELEY HEIGHTS

A cable operator is required to absorb the cost of extensions to the system in the same proportion that the extension is to the remainder of the system.

Actual subscribers served by the extension are required to absorb the remainder of the cost.

If new subscribers are added to the extension the cost is adjusted and those who previously paid receive an appropriate rebate.

- | | | |
|-----------------------------------|---|---------------------------|
| 1. <u># of homes in extension</u> | = | homes per mile (HPM) of |
| mileage of extension | | extension |
| 2. <u>HPM of extension</u> | = | ratio of the density of |
| Minimum HPM that | | the extension to the |
| company actually | | minimum density which the |
| constructs in the | | company constructs in the |
| system * | | system ("A") |
| 3. Total cost of building | = | company's share of |
| the extension times "A" | | extension cost |
| 4. Total cost of building | = | total amount to be |
| extension less company's | | recovered from |
| share of extension cost | | subscribers |
| 5. Total amount to be | = | each subscriber's share |
| <u>recovered from subs</u> | | |
| Total subscribers in extension | | |

In any case, the company shall extend its plant along public rights of way to:

1. All residences and businesses within 150 aerial feet of the operator's existing plant at no cost beyond the normal installation rate.
2. All residences and businesses within 100 underground feet of the operator's plant at no cost beyond the normal installation rate.

* The minimum HPM that the company actually constructs in the system or municipality is the minimum number of homes that the company has historically constructed at its own cost. This is a function of the operator's break-even point and its rate of return. Unbuilt systems will use the primary service area rather than construction.

The operator's installation policies shall apply to construction beyond the public right of way.

Detailed accounting and/or financial information to support the minimum HPM shall be supplied to the Office for its approval in such form as required. The minimum HPM shall be updated as appropriate.

When a request for service is received, and unless good cause is shown, cable companies shall:

1. Provide a written estimate within 30 days of such a request.
2. Begin construction within 60 days of receipt of any deposit monies from potential subscribers.
3. Complete construction within six months of receipt of any deposit monies from potential subscribers.
4. Inform each home passed along the extension of the potential costs for subscribers.

Subscribers who pay for an extension shall be entitled to rebates in the following manner:

1. If the company acquires new subscribers subsequent to the initial calculation of step 5 above, the formula will be adjusted and those who have previously paid for the extension will be entitled to an appropriate rebate. In no event shall the amount of the rebate exceed the subscriber's contribution.
2. The company shall keep accurate records of the cost of the extension, the amounts paid by subscribers and any appropriate adjustments.
3. The company shall notify subscribers in the extension of their rights and responsibilities concerning the extension.
4. Once an individual dwelling has paid its share of the extension cost future reconnections or installations shall be made at the company's standard rates.
5. After a period of five years from the installation of the first dwelling unit in the extension no further adjustments shall be made. Installations after five years shall be at the company's standard rate.
6. Once a subscriber is installed, that person shall not normally be entitled to a refund of any monies paid for the installations, except in accordance with the rebate procedure outlined in this policy.

Definitions

Primary Service Area

The Primary Service Area (PSA) can be an entire municipality, but in many instances the PSA is a limited area within a community outside of which a line extension policy may apply. The PSA is depicted by a franchise map and narrative, presented and recorded during the franchise proceedings. It normally remains a fixed geographic area throughout the life of the franchise.

Line Extension Survey

Potential subscribers residing outside the PSA who request service are entitled to an estimate of their share of the cost to secure service. When conducting a survey and estimating costs, a cable company should factor in all potential subscribers who could practicably be included in the extension and give consideration to apparent residential construction in areas contiguous to the proposed extension.

SERVICE LIST

Richard P. DeAngelis, Jr.
Stryker, Tams and Dill
Two Penn Plaza East
Newark, NJ 07105

Patricia Rapach
Township Clerk
Township of Berkeley Heights
29 Park Avenue
Berkeley Heights, NJ 07922-1499

Molly Adams
Manager of Public Affairs
Comcast
800 Rahway Avenue
Union, NJ 07083

Kenneth J. Sheehan, Esq.
Deputy Attorney General
Division of Law
124 Halsey Street
Newark, NJ 07102

Celeste M. Fasone, Director
Board of Public Utilities
Office of Cable Television
Two Gateway Center
Newark, NJ 07102

Karen A. Marlowe, Coordinator
State and Local Planning North
Board of Public Utilities
Office of Cable Television
Two Gateway Center
Newark, NJ 07102